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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,212	02/28/2002	Frank Cistone	65608.01001	6911

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Fox, Rothschild, O'Brien & Frankel, LLP
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2000 Market Street
Philadelphia, PA 19103

EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,212

Applicant(s)

CISTONE ET AL.1

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30,35-38 and 48-77 is/are pending in the application.
- 4a) Of the above claim(s) 1-8,11,31-34 and 59-64 and 22-28,52-54 and 65-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 9,10,12-21,29,30,48-51,57 and 58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, claims 12-21,29,30 and 48-51 filed March 1st, 2004 is acknowledged. Applicant added claims 55-77. As such, new claims 57 and 58 will be examined with Group II. Claims 55,56,59-64 will be group with Group I, and claims 65-77 will be grouped with Group III. An error on the part of the Examiner was discovered with regard to the grouping of claims 9 and 10. Said claims should have been grouped with Group II claims. As such, claims 9 and 10 will be examined with Group II claims 12-21,29,30,48-51 and new claims 57 and 58. Accordingly, the restriction of pending claims 1-30, 35-38, and 48-77 is set forth below.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8,11,31-34 and 59-64 drawn to textured yarns, staple fibers, or single and/or multi-component yarns class 428, subclass 357+.
- II. Claims 9,10,12-21,29,30,48-51,57 and 58 drawn to non-woven fabric classified in class, 442 subclass 327+.
- III. Claims 22-28,52-54 and 65-77 drawn to filtration and coalescing media classified in class, 210 subclass various.

Applicant's traversal is on the grounds that a restriction of the pending claims would create a financial hardship to Xtreme Fibers, Inc. This argument is not found persuasive. While the Examiner appreciates Applicant's extensive knowledge and experience in the field of intellectual property it is irrelevant with respect to the criteria for restriction between patentably distinct inventions (See MPEP 803). The aforementioned groupings of claims are on the basis

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that Applicant is claiming several distinct articles classified in various classes and subclasses. Because these inventions are distinct for reasons previously set forth in the requirement for restriction and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. However, if Group II claims are found allowable all claims previously withdrawn from consideration as result of a restriction can be subject to being rejoined (See MPEP 821.04). Therefore, Group I, claims 1-8,11,31-34 and 59-64 and Group III, claims 22-28,52-54 and 65-77 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as nonelected, there being no allowable generic or linking claim. The requirement is deemed proper and is therefore made FINAL.

Claim Objections

2. Claim 12 is objected to for depending from non-elected claim 11. It is suggested that claim 12 be rewritten in independent form.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9,10,12-21,29,30,48-51,57 and 58 rejected under 35 U.S.C. 103(a) as being unpatentable over Tamaru et al., US 6,479,143.

The patent issued to Tamaru et al., teaches forming fibers from a heat-meltable fluorine containing resin (Abstract). Suitable heat-meltable fluorine resins include tetrafluoroethyleneperfluoro (alky vinyl ether) copolymer (PFA) (Column 1, 65-Column 2, 9).

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Tamaru et al., teaches crimped staple fibers having 1-15/20 mm crimps per fiber length and a denier from 2-200 (Column 2, 45-53). Tamaru et al., teaches forming woven, knitted and non-woven fabrics as well as multi-layer felts, and webs (Column 3, 10-20). In example 1, Tamura teaches a web having a unit weight of 150 g/m^2 , which is equivalent to about 4.2 ounces per square yard (Column 12, 1-5). Suitable methods for making non-woven fabrics include needle punching and thermal bonding (Column 3, 30-40). With regard to the limitations pertaining to calendaring as set forth in claims 13 and 17, Tamura et al., teaches a heating belt type pressing method, which inherently would produce a smooth, textured or patterned surface depending on the type of pressing apparatus used. With regard to the limitation of providing a fabric with increased strength and stiffness, it is the position of the Examiner that the heat pressing techniques taught by Tamura et al., inherently would provide a fabric with increased strength and stiffness. With regard to the limitations pertaining to controlling the air permeability and mean pore size set forth in claims 16 and 17, it is the position of the Examiner that since no specific permeability or pore size physical values are given the teaching of needle-punching by Tamaru et al., inherently meets this limitation, since it is known in the art that needle punching effectively manipulates the porosity and permeability. In one embodiment, Tamura et al., teaches a multi-layer anti-bacterial woven, knitted, or non-woven fabric comprising heat-meltable fluorine resin fibers and a base layer which may comprise a woven, non-woven or knitted fabric made from polytetrafluoroethylene (PTFE), glass, or aramid fibers (Column 8, 36-55). With regard to the limitations pertaining to a fabric made from a blend of fibers, Tamaru et al., teaches mixed fibers in a mixing ratio of 1 to 99% comprising the above aforementioned heat-meltable fluorine resin fibers and other fibers such as glass, carbon, various heat-meltable fluorine containing resin

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fibers, and polytetrafluoroethylene (PTFE) fibers (Column 4, 9-46). With regard to the limitations pertaining to the specific mullen burst strength and air permeability values set forth in claims 29,30,49, and 51 Tamaru et al., fails to explicitly teach the said property values. However, it is the position of the Examiner that said properties are inherent to the invention of Tamura et al. Support for said presumption is found in the use of like materials such as heat-meltable fluorine containing resin fibers and like processes such as needling and heat pressing, which would provide for the claimed mullen burst strength and air permeability properties. The burden is shifted to Applicant to evidence otherwise. Tamaru et al., does not specifically teach the claimed angular saw-toothed shaped, however, the Examiner gives official notice that it conventional methods of crimping are the stuffer box and gear crimp processes, which inherently produce a saw-toothed shape. Thus, the Examiner asserts that it would be obvious to one having ordinary skill in the art to employ either crimping method to produce the claimed saw-toothed shape.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482.

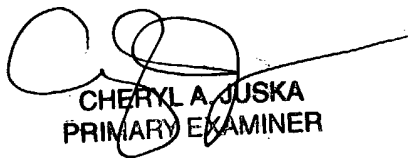
The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 15th, 2003



CHERYL A. JUSKA
PRIMARY EXAMINER